IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.12 OF 2005

IN

CHAMBER SUMMONS NO.52 OF 2004

IN

EXECUTION APPLICATION NO.114 OF 2003

IN

MUMBAI D.J.R.CO-OP.APPLN.NO.16 OF 2002

1. M/s.Jojo Construction Pvt.Ltd.
& anr. .. .. Appellants

v/s.

1. Citizen Credit Co-op.Bank &
others. .. .. .. Respondents

Mr.S.S.Kulkarni for appellants.
Mr.R.N.Singh i/by M/s.Singh & Co.for respondents.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 7TH FEBRUARY 2005

P.C. :

1. Heard Mr.Kulkarni for the appellants. Mr.Singh appears for the respondents.

2. This appeal seeks to challenge the order dated 30th August 2004 passed by the learned Single Judge on Chamber Summons No.52 of 2004.

The issues raised in the Chamber Summons are not decided by the learned Judge but in view of the intransigent attitude of the appellants, all that the learned Judge has directed is that only such property may be sold by the Sheriff as will be sufficient to realise the decretal amount. Mr.Kulkarni appearing for the appellants submits that the issue with regard to the jurisdiction of the Registrar under the Maharashtra Co-operative Societies Act is in dispute. That question will be gone into when the Chamber Summons will be heard. The appellants have been making offers right from January 2004 as pointed out by Mr.Singh and as recorded in the order of another learned Single Judge on 27th January 2004 but no amount is brought in by them. Subsequent to the impugned order, further order has also been passed by another Single Judge on an execution application on 3rd December 2004 and the Sheriff has taken further steps. He has fixed the auction today in the afternoon. It is too late in the day to interfere at this stage. All that is going to happen is that a part of the claimed amount will get deposited in Court. No need to interfere in the appeal. Appeal is, therefore, dismissed.

3. Mr.Kulkarni makes a request that the tender may not be opened for a further period of four weeks. The request is rejected.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)